

CNR No. HRJRA0000712-2020

Phool Kumar etc vs. Ram Kanwar etc

CS-373-2020

Present: Sh. Ravin Chhillar, Advocate for plaintiffs.
Sh. Sandeep Kumar Dagar, Advocate for defendants no 1 and 4.
Defendants no. 2, 3 and 5 yet to be served.

Today the case was fixed for service of defendants and Memo of Appearance on behalf of defendants no. 1 and 4 has been filed by counsel Sh. Sandeep Kumar Dagar, Advocate.

Notice issued to defendant no. 2 received back served personally. Notice issued to defendant no. 3 and 5 received back served with the report of through service. Though, service has been effected personally or through family member and none has appeared today, however, in the interest of justice, let summons be again issued to defendants no. 2,3 and 5 through ordinary process/speed post for the next date of hearing on filing of PF/Copy and other necessary compliance as per law. Dasti summons be given, as per law, if so desired.

Counsel for plaintiff submitted that parties to the suit are descendants of Late Sh. Charmu and after his death, the suit property i.e. residential plot bearing No. 2/1, measuring 734 sq. yards situated within revenue estate of Badhai, Bahadurgarh fell in share of his sons namely Ram Narain, Banwari and Sube. He pointed out copy of Field Book and related documents (Photocopies of Lal Dora pertaining to year 1959) and submitted that this plot no. 2/1 is recorded in name of Ram Narain and others. Counsel contended that the suit property is still joint and without effecting partition, the defendants are adamant to raise construction. During the course of arguments, counsel has submitted photographs in order to show that construction material/bricks has been collected on the disputed site. Accordingly, he prayed that during the pendency of the present suit, the defendants be restrained from

raising construction over the disputed suit property.

On the other hand, counsel representing defendants no. 1 and 4 admitted the relation of the parties and the fact that suit property was in name of their ancestor Charmu. However, he submitted that the suit property has already been mutually partitioned by way of family settlement/oral arrangement. Accordingly, he prayed that interim relief as prayed be declined.

After hearing both sides, it can be said that the suit has been filed seeking relief of possession by way of partition. Copy of Field Book and related documents prima facie establish the disputed property in name of Ram Narain and others and as per the photographs, the disputed site is lying vacant. Construction on any part of the disputed site without partition will complex the matter further and will certainly cause irreparable loss to the plaintiff.

Hence, the parties are directed not to raise any construction over the disputed site/suit property till next date of hearing.

Be fixed for **24.11.2020** for filing of written statement, reply to stay application by appearing defendants as well as service of remaining defendants no. 2,3 and 5. Power of Attorney on behalf of defendants no. 1 and 4 be also filed on the date fixed.

(Aashish Arya)
Civil Judge (Jr. Division)
Bahadurgarh, HR-0389

Date of order:- 20.10.2020

*I attest to the accuracy and authenticity
of this document"*
Shrikant Ojha, Stenographer